

Senate Study Bill 3036

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the appointment of a judicial officer, a clerk
2 of the district court, or a chief juvenile court officer.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5297DP 81
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1 1 Section 1. Section 46.12, Code 2005, is amended to read as
1 2 follows:

1 3 46.12 NOTIFICATION OF VACANCY AND RESIGNATION.

1 4 1. When a vacancy occurs or will occur within one hundred
1 5 twenty days in the supreme court, ~~or the court of appeals, or~~

~~1 6 district court, the state commissioner of elections shall~~
1 7 forthwith so notify the chairperson of the proper judicial

~~1 8 nominating commission, unless the chief justice has ordered~~

~~1 9 the state commissioner of elections to delay sending the~~

~~1 10 notification. The chief justice may order the delay for up to~~
~~1 11 one hundred eighty days for budgetary reasons. The~~

1 12 chairperson shall call a meeting of the commission within ten
1 13 days after such notice; if the chairperson fails to do so, the
1 14 chief justice shall call such meeting.

1 15 2. When a vacancy occurs or will occur within one hundred

1 16 twenty days in district court, the state commissioner of

1 17 elections shall forthwith so notify the chairperson of the

1 18 proper judicial nominating commission, unless the chief

1 19 justice has ordered the state commissioner of elections to

1 20 delay sending the notification. The chief justice may order

1 21 the delay for budgetary reasons. The chairperson shall call a

1 22 meeting of the commission within ten days after such notice;

1 23 if the chairperson fails to do so, the chief justice shall

1 24 call such meeting.

1 25 3. When a judge of the supreme court, court of appeals, or

1 26 district court resigns, the judge shall submit a copy of the

1 27 resignation to the state commissioner of elections at the time

1 28 the judge submits the resignation to the governor; and when a

1 29 judge of the supreme court, court of appeals, or district

1 30 court dies, the clerk of district court of the county of the

1 31 judge's residence shall in writing forthwith notify the state

1 32 commissioner of elections of such fact.

1 33 Sec. 2. Section 602.1215, subsection 1, Code Supplement

1 34 2005, is amended to read as follows:

1 35 1. Subject to the provisions of section 602.1209,

2 1 subsection 3, the ~~district judges~~ chief judge of each judicial

2 2 ~~election district, after consultation with the judges of the~~

~~2 3 appropriate judicial election district, shall by majority vote~~

2 4 appoint persons to serve as clerks of the district court

2 5 within the judicial ~~election~~ district. The ~~district judges~~

2 6 chief judge of a judicial ~~election~~ district may appoint a

2 7 person to serve as clerk of the district court for more than

2 8 one but not more than four contiguous counties in the same

2 9 judicial district. A person does not qualify for appointment

2 10 to the office of clerk of the district court unless the person

2 11 is at the time of application a resident of the state. A

2 12 clerk of the district court may be removed from office for

2 13 cause by a ~~majority vote of the district judges~~ chief judge of

2 14 the judicial ~~election~~ district. Before removal, the clerk of

2 15 the district court shall be notified of the cause for removal.

2 16 Sec. 3. Section 602.1217, subsection 1, Code 2005, is

2 17 amended to read as follows:

2 18 1. The district judges within a chief judge of each
2 19 judicial district, by majority vote, after consultation with
2 20 the judges of the judicial district, shall appoint a chief

2 21 juvenile court officer and may remove the officer for cause.
2 22 Sec. 4. Section 602.6304, subsections 2 and 3, Code 2005,
2 23 are amended to read as follows:

2 24 2. In November of any year in which an impending vacancy
2 25 is created because a district associate judge is not retained
2 26 in office pursuant to a judicial election, the county
2 27 magistrate appointing commission shall publicize notice of the
2 28 vacancy in at least two publications in the official county
2 29 newspaper. The commission shall accept applications for
2 30 consideration for nomination as district associate judge for a
2 31 minimum of fifteen days prior to certifying nominations. The
2 32 commission shall consider the applications and shall, by
2 33 majority vote, certify to the chief judge of the judicial
2 34 district not later than December 15 of that year the names of
2 35 three applicants who are nominated by the commission for the
3 1 vacancy, unless the chief justice has ordered the commission
3 2 to delay the certification of the nominees to the chief judge.
3 3 The chief justice may order the delay of the certification ~~for~~
3 4 ~~up to one hundred eighty days~~ for budgetary reasons. If there
3 5 are three or fewer applicants the commission shall certify all
3 6 applicants who meet the statutory qualifications. Nominees
3 7 shall be chosen solely on the basis of the qualifications of
3 8 the applicants, and political affiliation shall not be
3 9 considered.

3 10 3. Within thirty days after a county magistrate appointing
3 11 commission receives notification of an actual or impending
3 12 vacancy in the office of district associate judge, other than
3 13 a vacancy referred to in subsection 2, the commission shall
3 14 certify to the chief judge of the judicial district the names
3 15 of three applicants who are nominated by the commission for
3 16 the vacancy, unless the chief justice has ordered the
3 17 commission to delay the certification of the nominees to the
3 18 chief judge. The chief justice may order the delay of the
3 19 certification ~~for up to one hundred eighty days~~ for budgetary
3 20 reasons. The commission shall publicize notice of the vacancy
3 21 in at least two publications in the official county newspaper.
3 22 The commission shall accept applications for consideration for
3 23 nomination as district associate judge for a minimum of
3 24 fifteen days prior to certifying nominations. The commission
3 25 shall consider the applications and shall, by majority vote,
3 26 certify to the chief judge of the judicial district the names
3 27 of three applicants who are nominated by the commission for
3 28 the vacancy. If there are three or fewer applicants the
3 29 commission shall certify all applicants who meet the statutory
3 30 qualifications. Nominees shall be chosen solely on the basis
3 31 of the qualifications of the applicants, and political
3 32 affiliation shall not be considered. As used in this
3 33 subsection, a vacancy is created by the death, retirement,
3 34 resignation, or removal of a district associate judge, or by
3 35 an increase in the number of positions authorized.

4 1 Sec. 5. Section 602.6403, subsection 3, Code 2005, is
4 2 amended to read as follows:

4 3 3. Within thirty days following receipt of notification of
4 4 a vacancy in the office of magistrate, the commission shall
4 5 appoint a person to the office to serve the remainder of the
4 6 unexpired term, unless the chief justice has ordered the
4 7 commission to delay the appointment ~~for up to one hundred~~
4 8 ~~eighty days~~ for budgetary reasons. For purposes of this
4 9 section, vacancy means a death, resignation, retirement, or
4 10 removal of a magistrate, or an increase in the number of
4 11 positions authorized.

4 12 Sec. 6. Section 602.7103B, subsections 2 and 3, Code 2005,
4 13 are amended to read as follows:

4 14 2. In November of any year in which an impending vacancy
4 15 is created because a full-time associate juvenile judge is not
4 16 retained in office pursuant to a judicial election, the county
4 17 magistrate appointing commission shall publicize notice of the
4 18 vacancy in at least two publications in the official county
4 19 newspaper. The commission shall accept applications for
4 20 consideration for nomination as full-time associate juvenile
4 21 judge for a minimum of fifteen days prior to certifying
4 22 nominations. The commission shall consider the applications
4 23 and shall, by majority vote, certify to the chief judge of the
4 24 judicial district not later than December 15 of that year the
4 25 names of three applicants who are nominated by the commission
4 26 for the vacancy, unless the chief justice has ordered the
4 27 commission to delay the certification of the nominees to the
4 28 chief judge. The chief justice may order the delay of the

4 29 certification ~~for up to one hundred eighty days~~ for budgetary
4 30 reasons. If there are three or fewer applicants, the
4 31 commission shall certify all applicants who meet the statutory
4 32 qualifications. Nominees shall be chosen solely on the basis
4 33 of the qualifications of the applicants, and political
4 34 affiliation shall not be considered.

4 35 3. Within thirty days after a county magistrate appointing
5 1 commission receives notification of an actual or impending
5 2 vacancy in the office of full-time associate juvenile judge,
5 3 other than a vacancy referred to in subsection 2, the
5 4 commission shall certify to the chief judge of the judicial
5 5 district the names of three applicants who are nominated by
5 6 the commission for the vacancy, unless the chief justice has
5 7 ordered the commission to delay the certification of the
5 8 nominees to the chief judge. The chief justice may order the
5 9 delay of the certification ~~for up to one hundred eighty days~~
5 10 for budgetary reasons. The commission shall publicize notice
5 11 of the vacancy in at least two publications in the official
5 12 county newspaper. The commission shall accept applications
5 13 for consideration for nomination as full-time associate
5 14 juvenile judge for a minimum of fifteen days prior to
5 15 certifying nominations. The commission shall consider the
5 16 applications and shall, by majority vote, certify to the chief
5 17 judge of the judicial district the names of three applicants
5 18 who are nominated by the commission for the vacancy. If there
5 19 are three or fewer applicants, the commission shall certify
5 20 all applicants who meet the statutory qualifications.
5 21 Nominees shall be chosen solely on the basis of the
5 22 qualifications of the applicants, and political affiliation
5 23 shall not be considered. As used in this subsection, a
5 24 vacancy is created by the death, retirement, resignation, or
5 25 removal of a full-time associate juvenile judge, or by an
5 26 increase in the number of positions authorized.

5 27 Sec. 7. Section 633.20B, subsections 2 and 3, Code 2005,
5 28 are amended to read as follows:

5 29 2. In November of any year in which an impending vacancy
5 30 is created because a full-time associate probate judge is not
5 31 retained in office pursuant to a judicial election, the county
5 32 magistrate appointing commission shall publicize notice of the
5 33 vacancy in at least two publications in the official county
5 34 newspaper. The commission shall accept applications for
5 35 consideration for nomination as full-time associate probate
6 1 judge for a minimum of fifteen days prior to certifying
6 2 nominations. The commission shall consider the applications
6 3 and shall, by majority vote, certify to the chief judge of the
6 4 judicial district not later than December 15 of that year the
6 5 names of three applicants who are nominated by the commission
6 6 for the vacancy, unless the chief justice has ordered the
6 7 commission to delay the certification of the nominees to the
6 8 chief judge. The chief justice may order the delay of the
6 9 certification ~~for up to one hundred eighty days~~ for budgetary
6 10 reasons. If there are three or fewer applicants, the
6 11 commission shall certify all applicants who meet the statutory
6 12 qualifications. Nominees shall be chosen solely on the basis
6 13 of the qualifications of the applicants, and political
6 14 affiliation shall not be considered.

6 15 3. Within thirty days after a county magistrate appointing
6 16 commission receives notification of an actual or impending
6 17 vacancy in the office of full-time associate probate judge,
6 18 other than a vacancy referred to in subsection 2, the
6 19 commission shall certify to the chief judge of the judicial
6 20 district the names of three applicants who are nominated by
6 21 the commission for the vacancy, unless the chief justice has
6 22 ordered the commission to delay the certification of the
6 23 nominees to the chief judge. The chief justice may order the
6 24 delay of the certification ~~for up to one hundred eighty days~~
6 25 for budgetary reasons. The commission shall publicize notice
6 26 of the vacancy in at least two publications in the official
6 27 county newspaper. The commission shall accept applications
6 28 for consideration for nomination as full-time associate
6 29 probate judge for a minimum of fifteen days prior to
6 30 certifying nominations. The commission shall consider the
6 31 applications and shall, by majority vote, certify to the chief
6 32 judge of the judicial district the names of three applicants
6 33 who are nominated by the commission for the vacancy. If there
6 34 are three or fewer applicants, the commission shall certify
6 35 all applicants who meet the statutory qualifications.
7 1 Nominees shall be chosen solely on the basis of the
7 2 qualifications of the applicants, and political affiliation
7 3 shall not be considered. As used in this subsection, a
7 4 vacancy is created by the death, retirement, resignation, or

7 5 removal of a full-time associate probate judge, or by an
7 6 increase in the number of positions authorized.
7 7 Sec. 8. 2003 Iowa Acts, chapter 151, section 64, is
7 8 repealed.

7 9 EXPLANATION

7 10 This bill relates to practices and procedures of the
7 11 judicial branch.

7 12 The bill provides the chief justice may indefinitely delay
7 13 the appointment of a judge or magistrate for budgetary
7 14 reasons. Current law provides only through July 1, 2006, that
7 15 the chief justice may delay the appointment of a judge or
7 16 magistrate for up to 180 days for budgetary reasons.

7 17 The bill changes current law regarding the chief justice
7 18 delaying the appointment of a supreme court justice or court
7 19 of appeals judge for up to 180 days for budgetary reasons.
7 20 Under the bill, the chief justice will no longer be able to
7 21 delay the appointment of a supreme court justice or court of
7 22 appeals judge for budgetary reasons.

7 23 The bill provides that the chief judge of a judicial
7 24 district shall, after consultation with the judges of the
7 25 judicial election district, appoint to or remove from office
7 26 the clerk of the district court. Current law provides that
7 27 the clerk of the district court is appointed or removed from
7 28 office by a majority vote of the district judges within the
7 29 judicial election district.

7 30 The bill also provides the chief judge of a judicial
7 31 district shall, after consultation with the judges of the
7 32 judicial district, appoint to or remove from office the chief
7 33 juvenile court officer. Current law provides that the
7 34 juvenile court officer shall be appointed to or removed from
7 35 office by a majority vote of the district judges of the
8 1 judicial district.

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